

INVITATION TO QUOTE
DULUTH SEAWAY PORT AUTHORITY
MATERIAL SALE FROM ERIE PIER

ARTICLE I
INVITATION FOR QUOTATIONS

The Duluth Seaway Port Authority ("Authority") will receive quotations for a contract to remove dredged sand ("Material") from Erie Pier.

All quotations must be based upon a review of this Document.

All quotations must contain information required by and must be submitted on the Quote Proposal Form (Exhibit A).

Quotations will be received through 10:00 a.m. CST, May 23, 2023, at which time they will be opened and read aloud in the board room of the Duluth Seaway Port Authority, 802 Garfield Avenue in Duluth, Minnesota.

For inspection of job site, call Dean Lembke at 218-740-5450.

ARTICLE II
INSTRUCTIONS TO QUOTERS

Each Quoter, also referred to herein as "Contractor", by making a quotation represents that:

- 2.1. They have read and understand this Document, Quote Proposal Form (Exhibit A), Contract to Remove Dredged Sand from Erie Pier (Exhibit B), Earthwork Report (Exhibit C), Sieve Analysis (Exhibits D, E, F and G) and Stockpile Location (Exhibit H) (collectively "Quote Documents").
- 2.2. The quote is based upon the Quote Documents without exception.
- 2.3. Quoter will send all quotes or other communications only to Dean Lembke, Director of Building and Facilities, Duluth Seaway Port Authority, 802 Garfield Ave, Duluth, MN 55802.
- 2.4. The Contract to Purchase Material that provides that Contractor is responsible for loading and transporting the Material at Contractor's expense shall be executed by the successful Quoter prior to commencement of work.
- 2.5. No Commissioner, officer, director, or employee of the Authority can modify, amend or waive any quote conditions prior to the opening of quotes.

**ARTICLE III
CONDITIONS OF CONTRACT**

- 3.1. **Conditions.** The following conditions shall be part of any contract awarded to the successful Quoter, and the submission of any quote constitutes an acknowledgement of an agreement to such terms:
- 3.1.1. The Executive Director of the Duluth Seaway Port Authority will enter into the Contract to Purchase Material after the Port Authority approves the quotation and approves an award of the Contract.
 - 3.1.2. All work will be performed in a safe, workmanlike manner without damage to Authority property.
 - 3.1.3. The period during which the Contractor will have access to the site will be at the discretion of the Authority.
 - 3.1.4. The Contractor agrees to pre-pay for the material prior to commencement of work. The amount prepaid will be a Lump Sum value, plus 6.875% State of Minnesota, 1% City of Duluth and 0.50% St. Louis County sales tax. Sales tax may be waived if the Material will be re-sold or if the Contractor furnishes the Authority a valid sales tax exemption letter from the State of Minnesota.
 - 3.1.5. If the Contractor fails to remove the Material from the dredged material removal pile on Erie Pier by **October 6, 2023** ("Removal Deadline"), the Contractor will forfeit all rights to remove any more Material and Authority will retain the amount paid by the Contractor for the Material.
- 3.2. **Contractor's and Subcontractor's Insurance.** The Contractor shall not commence work under this contract until Contractor has obtained all of the insurance required under this Section and proof of such insurance has been approved by the Authority, nor shall the Contractor allow any subcontractor to commence work on Contractor's subcontract until the insurance required of the subcontractor has been so obtained and approved.
- 3.2.1. **Workers Compensation Insurance.** The Contractor shall procure and shall maintain during the life of this contract Worker's Compensation Insurance as required by applicable state or territorial law for all of Contractor's employees to be engaged in work at the site under this contract and, in case of any such work sublet, the Contractor shall require the subcontractor similarly to provide such Worker's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Workers Compensation Insurance. In case any class of employees engaged in hazardous work on the site is not protected under the Worker's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of such of Contractor's employees as are not otherwise protected.

- 3.2.2. **Contractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance.** The Contractor shall procure and shall maintain during the life of this contract Contractor's Property Damage Insurance and Vehicle Liability Insurance and Contractor's Property Damage Insurance and Vehicle Liability Insurance and Contractor's Public Liability Insurance in the amounts specified in Section 3.2.7 below, or as otherwise specified by the Authority.
- 3.2.3. **Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance.** The Contractor shall either (1) require each of Contractor's subcontractors to procure and to maintain during the life of Contractor's subcontract, Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified in Section 3.2.7 below, specified in Section 3.2.2 hereof, or (2) insure the activities of Contractor's subcontractors in Contractor's policy, specified in Section 3.2.2 hereof.
- 3.2.4. **Scope of Insurance and Special Hazards.** The insurance required under Section 3.2.2 and Section 3.2.3 hereof provide adequate protection for the Contractor and Contractor's subcontractors, respectively against damage claims which may arise from operations under this contract, whether such operations be by the insured or by any one directly or indirectly employed by him and also against any of the special hazards which may be encountered in the performance of this contract as enumerated in Section 3.2.7 below.
- 3.2.5. **Indemnification.** The Contractor shall indemnify and save harmless the Authority from all claims and actions of any kind arising from, or incidental to the performance of the contract and expenses incidental to such claims and actions, including attorneys' fees, and shall assume without expense to the Authority, the defense of any such claims or actions. Except to the extent prohibited by law, this indemnity applies regardless of any strict liability or negligence attributable to the Authority (including sole negligence) and regardless of the extent to which the underlying occurrence (i.e., the event giving rise to a claim which would have been covered by the specified insurance) is attributable to the negligent or otherwise wrongful act or omission (including breach of contract) of Contractor, or its subcontractors, agents, employees or delegates. Contractor agrees that this indemnity shall be construed and applied in favor of indemnification. Contractor also agrees that if applicable law limits or precludes any aspect of this indemnity, then the indemnity will be considered limited only to the extent necessary to comply with that applicable law. The stated indemnity continues until all applicable statutes of limitation have run.

If a claim arises within the scope of the stated indemnity, the Authority may require Contractor to:

3.2.5.1. Furnish and pay for a surety bond, satisfactory to the Authority, guaranteeing performance of the indemnity obligation; or

3.2.5.2. Furnish a written acceptance of tender of defense and indemnity from Contractor's insurance company.

Contractor will take the action required by the Authority within fifteen (15) days of receiving notice from the Authority.

3.2.6. **Proof of Insurance.** The Contractor shall furnish the Authority with a certificate showing the type, amount, class of operations covered, effective dates and dates of expiration of policies. Such certificates shall contain substantially the following statement: "The insurance covered by this certificate will not be canceled, materially altered, or not renewed, except after thirty (30) days written notice or ten (10) days for non-payment of premium, has been received by the Authority." Authority is to be named an additional insured on such Certificate and not merely as a Certificate holder. Contractor must provide Authority with appropriate endorsements to its policy(ies) of insurance reflecting the status of Authority as an additional insured and requiring that the foregoing notice of cancellation, material alteration or non-renewal be provided to Authority by the insurance company providing such insurance policy(ies) to Contractor. In addition, all policies shall contain a waiver of subrogation in favor of Authority. All policies shall apply on a "per project" basis. Contractor agrees to maintain all coverage required herein throughout the term of the Contract and for a minimum of two (2) years following Authority's written acceptance of the Contract.

3.2.7. **Limits of Insurance.**

Worker's Compensation: As required by Minnesota law with an "all states" endorsement

Employer's Liability	Per Occurrence	\$2,000,000.00
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Independent Contractor's protective coverage liability:

Bodily Injury:	Per Occurrence	\$2,000,000.00
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Property Damage	Per Occurrence	\$2,000,000.00
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Products and completed operations coverage to be kept in place for the duration of any contract guarantee period:

Bodily Injury	Per Occurrence	\$2,000,000.00
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Property Damage	Per Occurrence	\$2,000,000.00
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Comprehensive General Liability, Premises and Operations:		
Bodily Injury	Per Occurrence	\$2,000,000.00
Comprehensive General Liability, Property Damage and Bodily Injury: Per Occurrence		
		\$2,000,000.00
Products – Completed Operations Per Occurrence		
Fire Legal Liability	Each Occurrence	\$2,000,000.00
		\$100,000.00
Medical Expense:		\$5,000.00
Contractual Liability covering customary Construction Contract and subcontract indemnity provisions:		
Bodily Injury	Per Occurrence	\$2,000,000.00
Contractual Liability covering customary Construction Contract and subcontract indemnity provisions:		
Property Damage	Per Occurrence	\$2,000,000.00
Comprehensive Automobile Liability		
		\$2,000,000.00
Combined single limit each accident (shall include coverage for all owned, hired and non-owned vehicles).		
Property Damage	Per Occurrence	\$2,000,000.00

3.2.8. **Public Liability Insurance.** Public Liability Insurance written on an "occurrence" basis under Comprehensive General Liability Form with "Broad Form" property damage liability coverage, with the XCU exclusion removed, in limits specified in Section 3.2.7 above. Contractor shall require such liability coverage from all subcontractors unless they are insured under Contractor's policies. Certificates evidencing such coverage obtained by any subcontractor shall be provided to Authority.

3.2.9. **Commercial General Liability.** The Commercial General Liability Policy shall be on ISO form CG 00 01 12 07 or CG 00 01 04 13, or the equivalent. Such insurance shall cover liability arising from premises, operations, independent contractors, products completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). There shall be no endorsement or modification of the Commercial General Liability form arising from pollution, explosion, collapse, underground property damage or work performed by subcontractors.

- 3.2.10. **Claim Form.** Contractor shall obtain and provide to Authority, with the Certificate of Insurance, a Claim Form for use by parties with claims against Contractor arising out of the performance of work by Contractor under the Contract with Authority.
- 3.2.11. **Policy(ies).** All policies shall be primary and non-contributory.
- 3.2.12. **Deductible.** It shall be Contractor's responsibility to pay any retention or deductible for the coverage required herein.
- 3.2.13. **Insurance Rating.** Contractor shall maintain in effect all insurance coverages required under this section at Contractor's sole expense and with insurance companies licensed to do business in the state in Minnesota and having a current A.M. Best rating of no less than A-, unless specifically accepted by Authority in writing.
- 3.2.14. **Liability and Indemnity.** It is agreed that the employees and officers of the Authority shall not be personally liable or responsible in any manner to the Contractor, sub-contractors suppliers, laborers, or to any other person or persons for any claim, demand, damages, action or causes of action of any kind or character arising out of or by reason of this contract.

ARTICLE IV SPECIFICATIONS

The successful Quoter agrees to:

- 4.1. Disclose the use and final placement location of the Material to the Authority and take appropriate samples and perform any testing that is required by applicable law. The Material is purchased "as-is where-is" and Quoter shall supply test results to the Authority. The Authority will provide test results performed by the U.S. Army Corps of Engineers on the Material.
- 4.2. Obtain a Prohibited Invasive Species Permit from the Minnesota DNR for transport, and placement of the Material, due to the likelihood of the Material containing viable purple loosestrife seeds. The permit will include required procedures for assuring that purple loosestrife will not establish a new invasion.
- 4.3. If placement is intended in Wisconsin, Contractor must also follow and adhere to Wisconsin DNR requirements and procedures for placement.
- 4.4. The Quoter shall be responsible for security of the Material and all costs connected with loading and transport of the Material.

- 4.5. The Quoter shall be responsible for maintaining the gravel road into Erie Pier stockpile area from which the Material is to be removed.
- 4.6. The Authority will designate the areas from which the Material may be removed.
- 4.7. The Quoter will be required to restore the location of the stockpiled dredged sand to the Authority's satisfaction at the Quoter's sole cost before the Removal Deadline.
- 4.8. If dredging is being accomplished during the period of removal of the Material, the Quoter must comply with any additional requirements made by the U.S. Army Corps of Engineers and by the dredging contractor regarding access to the site and times of work.
- 4.9. **Payment of Contract Sum.** The Authority will be paid in full at execution of contract.
- 4.10. **Compliance with Applicable Law.** The Quoter shall conform to all rules and regulations of MSHA, OSHA and state and local authorities as they apply to contractors. Quoter covenants and agrees to also comply with all applicable laws and regulations in performing the contract, including but not limited to applicable equal opportunity of employment provisions.

ARTICLE V INDEPENDENT INVESTIGATION

The execution of the Contract to Purchase Material shall constitute Contractor's acknowledgment that Contractor has independently inspected and investigated the Material and has made and entered into the Contract based upon such inspection and investigation and its own examination of the condition of the Material. Upon execution of the Contract, Contractor shall assume the risk that adverse matters, including adverse physical and environmental conditions and the suitability or unsuitability of the Material for Contractor's intended uses, may not have been revealed by Contractor's investigations. Contractor, upon execution of the Contract, shall be deemed to have waived, relinquished and released DSPA and its employees, agents and attorneys (collectively, the "DSPA-Related Parties") from and against, and covenanted not to sue any of the foregoing with regard to, any and all claims, demands, causes of action (including causes of action in tort or under any environmental law), losses, damages, liabilities (whether based on strict liability or otherwise), losses, damages, liabilities, costs and expenses (including attorneys' fees and court costs) of any and every kind or character, known or unknown, which Contractor might have asserted or alleged against DSPA and/or DSPA-Related Parties at any time (including without limitation to the extent covered by or that would be covered by [as opposed to paid] by insurance) by reason of or arising out of any latent or patent defects or physical conditions, violations of any applicable laws (including, without limitation, any environmental laws), the suitability of the Material for any purposes contemplated by Contractor and any and all other acts, omissions, events, circumstances or matters regarding the Material.

ARTICLE V
AS IS PROVISIONS

Contractor is accepting the Material "AS IS" and "WHERE IS", and with all faults, the Authority makes no representations or warranties, whether express or implied, by operation of law or otherwise, with respect to the quality, physical condition or value of the Material and the compliance of the Material with applicable laws or regulations. Contractor agrees that the Authority is not liable or bound by any guarantees, promises, statements, representations or information pertaining to the Material made or furnished by the Authority or any agent, officer, director, employee or other person representing or purporting to represent the Authority.

EXHIBIT A

**CONTRACTOR'S QUOTE PROPOSAL FORM
DULUTH SEAWAY PORT AUTHORITY
MATERIAL SALE FROM ERIE PIER**

In compliance with and subject to the Invitation to Quote, Conditions of Contract, the Specifications and this Quote Proposal Form (Exhibit A), the undersigned offers and agrees to purchase at the price set opposite the description. (Form must be filled out and signed.) Lump Sum quoted price is for Material "as-is" and "where-is". The Authority makes no warranty regarding quality or quantity of the Material. Material removal must be complete by October 6, 2023.

DESCRIPTION	LUMP SUM	LUMP SUM <i>Plus sales tax, if applicable</i>
Material (Dredged Sand):	_____	_____

All dollar amounts are subject to Minnesota State, City of Duluth and St. Louis County Sales taxes, unless for re-sale or unless the Contractor furnishes a State of Minnesota Sales tax exemption letter applicable to the purchase.

COMPANY: _____

Address: _____

Signature: By _____

Its _____

Dated: _____

EXHIBIT B
CONTRACT TO
PURCHASE MATERIAL

THIS AGREEMENT, made this ____ day of _____, 2023 by and between the Duluth Seaway Port Authority, of Minnesota (the "Authority"), and _____ (the "Contractor").

1. The Quote Proposal Form dated _____, (Exhibit A) is a part of this Contract as though fully set forth herein. The Contractor will remove Material "As Is" and "Where Is" within the following times:

Award – October 6, 2023.

2. It is further agreed, anything to the contrary herein or elsewhere notwithstanding, that the commissioners, employees and officers of the Authority shall not be personally liable or responsible in any manner to the Contractor, subcontractors, suppliers, laborers, or to any other person or persons whomsoever for any claim, demand, damages, actions or causes of action of any kind or character arising out of or by reason of the execution of this Contract or the performance and completion of the removal of the Material provided herein.
3. It is further agreed, that the Contractor shall indemnify and hold harmless the Authority, its commissioners, officers and employees from and against any and all losses, damages, claim or action, including all expenses incidental to such claim or action, and/or penalties sustained, and from any and all liability for injury to any persons and/or damage to any property incurred by the Authority by reason of any act or omission of the Contractor, its subcontractors, suppliers, agents or employees, in connection with the performance of this Contract, unless the same shall be solely due to the negligence of the Authority, its commissioners, officers, agents or employees.
4. Payment will be made for the full amount of the quote at execution of this contract. All Material is to be removed or transferred by the date listed above or the ownership of the Material reverts back to the Authority, without refund to Contractor.
5. This Contract shall in every respect comply with all applicable federal, state and local laws, regulations and codes. The Contractor is prohibited to enter Erie Pier other than the specified days and any violation terminates this Contract and the Contractor forfeits remaining balance of the Material and no refund will be made.
6. By executing this Contract, Contractor acknowledges, understands and agrees that it is bound by and agrees to all of the terms and provisions contained in the Invitation to Quote dated _____, 2023 and all Exhibits attached thereto.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized agents as of the date first above written.

_____ **DULUTH SEAWAY PORT AUTHORITY**

By _____
Its _____

By _____
Deborah DeLuca, Executive Director

EXHIBIT C

1/17/23, 2:04 PM

Earthwork Report

USACE - Duluth

Project File Data	Coordinate System
Name: S:_SURVEY\Special Projects\Erie Pier\2022\2022 Erie Pier.vce	Name: United States/State Plane 1983
Size: 8 MB	Zone: Minnesota North 2201
Modified: 1/4/2023 11:38:31 AM (UTC:-6)	Datum: NAD 1983 (Conus)
Time zone: Central Standard Time	Global reference datum: NAD83(2011)
Reference number:	Global reference epoch: 2010
Description:	Geoid: GEOID12B (Conus)
Comment 1:	Vertical datum: IGLD 85
Comment 2:	Calibrated site:
Comment 3:	

Stockpile Volume Analysis

Measured stockpile surface compared to estimated foundation surface

Surfaces	
2022 Erie Pier	Classification: Stockpile

Volumes from Surface Geometry	
Approximate stockpile volume	13,045.1 yd ³
Approximate depression volume	0.9 yd ³

Areas from Surface Geometry	
Approximate stockpile area	38,492.3 ft ²
Approximate depression area	203.9 ft ²
Zero volume area	21.2 ft ²
Total	38,717.3 ft ²

Depth summary	
Maximum depth of stockpile	17.557 ft
Maximum depth of depression	0.403 ft

This is a report of the volume of a stockpile, as measured between the stockpile surface and a surface constructed from the base of the stockpile.

Note: Part of the stockpile surface lies beneath the base of the stockpile. The reported stockpile volume is only the volume above the stockpile base. The reported depression volume is the volume below the stockpile base.

Note: The above volumes are calculated solely from the geometries of the selected surfaces. No material properties are applied to the above numbers.

Reported volumes are limited to those that lie within the constraining boundary.	
Boundary name:	Stockpile Toe
Area within boundary:	38,717.3 ft ² (0.88883 AC)
Total triangulated area:	38,717.3 ft ² (0.88883 AC)

Date: 1/17/2023 2:04:40 PM	Project: S:_SURVEY\Special Projects\Erie Pier\2022\2022 Erie Pier.vce	Trimble Business Center
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EXHIBIT D



American Engineering Testing, Inc.
 Duluth
 4431 W Michigan St
 Duluth, MN 55807
 (218) 628-1518
 www.teamAET.com

Material Test Report

Report No: MAT:AET-086933-S1

Issue No: 1

Client: ROEN SALVAGE COMPANY
Project: Erie Pier Testing
 Erie Pier
 Duluth MN
Job No: P-0014510

CC: Barry Kuzay
 Peter Huber

This document shall not be reproduced, except in full, without written approval from American Engineering Testing, Inc.

Date of Issue: 10/8/2022
Reviewed By: Taryn Erickson
 Staff Engineer

Sample Details

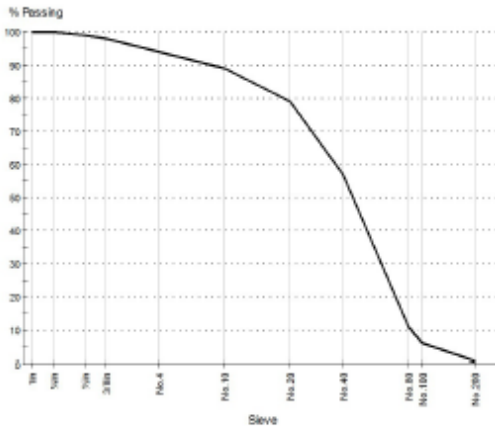
Sample ID AET-086933-S1
Field Sample ID 22-1
Date Sampled 10/7/2022
Source Onsite, Stockpile
Material Sand, a little gravel (SP)
Specification Erie Pier Dredged Material
Sampling Method Field
Location Erie Pier

Date Submitted 10/7/2022

Other Test Results

Description	Method	Result	Limits
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Particle Size Distribution



Method: ASTM C 136, ASTM C 117
Drying By: Oven
Date Tested: 10/7/2022
Tested By: Doug Klun

Sieve Size	% Passing	Limits
1in (25.0mm)	100	
3/4in (19.0mm)	100	
1/2in (12.5mm)	99	
3/8in (9.5mm)	98	
No. 4 (4.75mm)	94	
No. 10 (2.0mm)	89	
No. 20 (850µm)	79	
No. 40 (425µm)	57	
No. 80 (180µm)	11	
No. 100 (150µm)	6	
No. 200 (75µm)	0.6	≤7.0

Comments

The material meets the dredged material gradation requirement provided by Roen Salvage Company.

EXHIBIT G



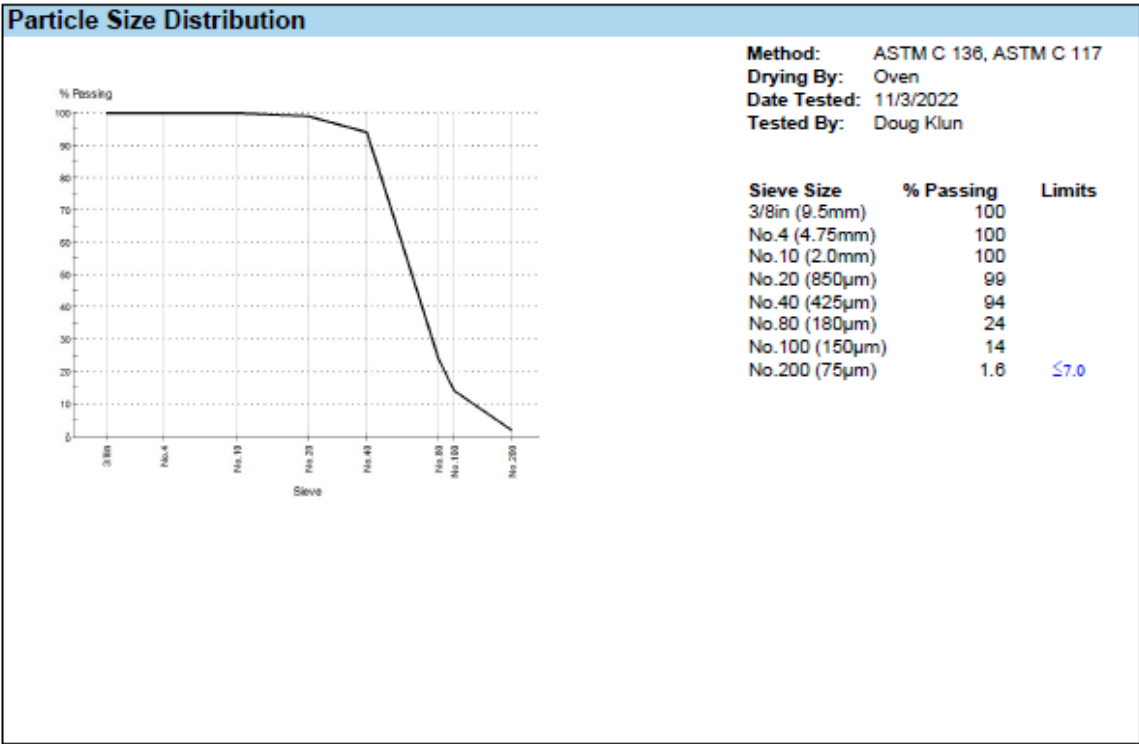
American Engineering Testing, Inc.
 Duluth
 4431 W Michigan St
 Duluth, MN 55807
 (218) 628-1518
 www.teamAET.com

Material Test Report

Report No: MAT:AET-091943-S1
 Issue No: 1

Client: ROEN SALVAGE COMPANY Project: Erie Pier Testing Erie Pier Duluth MN Job No: P-0014510	CC: Barry Kuzay Peter Huber	This document shall not be reproduced, except in full, without written approval from American Engineering Testing, Inc. Date of Issue: 11/5/2022 Reviewed By: Taryn Erickson Staff Engineer
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Sample Details	Other Test Results																						
<table style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 30%;">Sample ID</td><td>AET-091943-S1</td></tr> <tr><td>Field Sample ID</td><td>22-4</td></tr> <tr><td>Date Sampled</td><td>11/3/2022</td></tr> <tr><td>Source</td><td>Erie Pier</td></tr> <tr><td>Material</td><td>Sand (SP)</td></tr> <tr><td>Specification</td><td>Erie Pier Dredged Material</td></tr> <tr><td>Sampling Method</td><td>Field</td></tr> <tr><td>Location</td><td>NA</td></tr> <tr><td>Date Submitted</td><td>11/3/2022</td></tr> </table>	Sample ID	AET-091943-S1	Field Sample ID	22-4	Date Sampled	11/3/2022	Source	Erie Pier	Material	Sand (SP)	Specification	Erie Pier Dredged Material	Sampling Method	Field	Location	NA	Date Submitted	11/3/2022	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr style="border-bottom: 1px solid black;"> <th style="width: 40%;">Description</th> <th style="width: 20%;">Method</th> <th style="width: 20%;">Result</th> <th style="width: 20%;">Limits</th> </tr> </thead> </table>	Description	Method	Result	Limits
Sample ID	AET-091943-S1																						
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Date Submitted	11/3/2022																						
Description	Method	Result	Limits																				



Comments
 The material meets the Erie Pier dredged material gradation requirement.

EXHIBIT H

